

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RESPONSE UNDER RULE 116
EXPEDITED HANDLING PROCEDURES

In re Patent Application of

MAERTENS, et al.

Serial No. 09/995,860

Filed: November 29, 2001

Title: PURIFIED HEPATITIS C VIRUS ENVELOPE PROTEINS FOR DIAGNOSTIC AND
THERAPEUTIC USE

Atty Dkt. 2551-69

C# M#

T.A.U. 1648

Examiner: LI, BAO Q

Date: February 22, 2005

Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

RESPONSE/AMENDMENT/LETTER

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

☐ **Correspondence Address Indication Form Attached.**

Fees are attached as calculated below:

Total effective claims after amendment **37** minus highest number
 previously paid for **95** (at least 20) = 0 x \$50.00 \$0.00 (1202)/\$0.00 (2202) \$

Independent claims after amendment **2** minus highest number
 previously paid for **6** (at least 3) = 0 x \$200.00 \$0.00 (1201)/\$0.00 (2201) \$

If proper multiple dependent claims now added for first time, (ignore improper); add
 \$360.00 (1051)/\$180.00 (2051) \$

Petition is hereby made to extend the current due date so as to cover the filing date of this
 paper and attachment(s)
 One Month Extension \$120.00 (1251)/\$60.00 (2251)
 Two Month Extensions \$450.00 (1252)/\$225.00 (2252)
 Three Month Extensions \$1020.00 (1253)/\$510.00 (2253)
 Four Month Extensions \$1590.00 (1254)/\$795.00 (2254) \$

Terminal disclaimer enclosed, add \$130.00 (1814)/ \$65.00 (2814) \$

☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee \$180.00 (1806) \$

Assignment Recording Fee \$40.00 (8021) \$

Other: **The one month extension fee of \$120 is being submitted with the RCE filing as indicated in
 the attached RCE Transmittal** \$

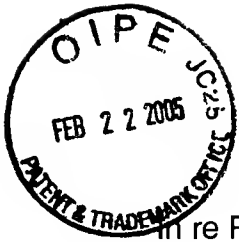
TOTAL FEE ENCLOSED \$ 0.00

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

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NIXON & VANDERHYE P.C.
 By Atty: B. J. Sadoff, Reg. No. 36,663

Signature: 



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* * * * *

February 22, 2005

MAIL STOP AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

AMENDMENT UNDER RULE 116

Responsive to the Official Action dated October 19, 2004, entry and consideration of the following amendments and remarks are requested; the period for response having been extended up to and including Tuesday, February 22, 2005, by submission of the requisite petition and fee, attached.

Attached is a Request for Continued Examination (RCE) which is being filed to insure consideration of the attached reference and Information Disclosure Statement. The RCE is also being filed so that the Patent Office delay in rendering a Decision on the Petition filed July 14, 2004 (see below) will not continue to cost the applicants further extension fees.

A Refund Request for the cost of the RCE (\$790) minus the cost of an Information Disclosure Statement fee (\$180) is attached as the undersigned submits

that the attached RCE would not be required for consideration of the attached reference, and only an IDS fee would have been required, had the Examiner not issued the premature final rejection of October 19, 2004. Refund of \$610 to the undersigned's Deposit Account No. 14-1140 is requested.

The applicants again request a Decision on the Petition filed July 14, 2004. The Examiner is requested to issue a new non-final Office Action in the event the present Amendments are not believed by the Examiner to place the application in condition for allowance. The new non-final Office Action is requested to allow the Patent Office time to render a Decision on the Petition filed over seven (7) months ago without requiring the applicants to pay further extension fees. The Patent Office continued delay in rendering a Decision on the Petition filed July 14, 2004 continues to unfairly require extension fees of the applicants so long as prosecution is closed. Issuance of a non-final Office Action and re-opening prosecution will at least allow the Patent Office to continue in its delay in rendering a Decision without requiring further extension fees from the applicants.

The applicants submit that the new final rejection of claim 17 over WO96/04385A2 is a new rejection which was not necessitated by the applicants Amendment of July 14, 2004. The finality of the Office Action dated October 19, 2004 should be withdrawn and a new non-final Action mailed in the event the Examiner believes claim 17 is unpatentable over the art. Claim 17 was not amended in the Amendment of July 14, 2004.

Similarly, the Section 112, second paragraph, rejection of claim 17 and the obviousness-type double patenting rejection of claim 17 were not necessitated by the

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applicants Amendment of July 14, 2004. The finality of the Office Action dated October 19, 2004 should be withdrawn and a new non-final Action mailed in the event the Examiner believes claim 17 is unpatentable for any reason. Claim 17 was not amended in the Amendment of July 14, 2004.